

**FILED**

**DEC 08 2008**

**Jim Ruby, Executive Secretary  
Environmental Quality Council**

**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING**

In the Matter of: )  
Basin Electric Power Cooperative ) Docket No. 07-2801  
Dry Fork Station, )  
Air Permit CT - 4631 )

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**ORDER NUNC PRO TUNC AMENDING "ORDER GRANTING BASIN  
ELECTRIC COOPERATIVE'S AND DEPARTMENT OF ENVIRONMENTAL  
QUALITY'S MOTIONS FOR SUMMARY JUDGMENT REGARDING  
PROTESTANTS' CLAIM VIII"**

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The Environmental Quality Council (EQC) having considered the Joint Stipulation and Motion to Amend an Order on Summary Judgment Nunc Pro Tunc, filed by the Department of Environmental Quality (DEQ) and Basin Electric Power Cooperative (Basin Electric) finds and orders as follows:

1. At a hearing on September 29-30, the EQC heard the parties' arguments and deliberated on the parties' motions for summary judgment regarding Protestants' Claim VIII. The EQC voted to grant Basin Electric's and DEQ's motions for summary judgment on Claim VIII and to deny Protestants' motion for summary judgment on Claim VIII.

2. At a hearing on November 20, 2008, the EQC voted to authorize the EQC Chairman to execute the final form of the written order granting Basin Electric's and DEQ's motions for summary judgment regarding Protestants' Claim VIII.

3. On November 25, 2008, the DEQ and Basin Electric filed a Joint Stipulation and Motion agreeing that an error was made in Conclusion of Law

paragraph 49 and requesting the EQC Chairman to amend and correct Nunc Pro Tunc the EQC's previous Order. Protestants do not oppose this Motion or entry of this Order.

4. Based on the record before the EQC when it approved the form of the final written Order granting Basin Electric's and DEQ's motions for summary judgment regarding Protestants' Claim VIII, the form of the final written Order contained an error at Conclusion of Law paragraph 49, in that the last sentence of that paragraph referenced actual emissions "from all sources" instead of "from Colstrip."

5. The EQC Chairman has not yet signed the form of the Order approved by the EQC on November 20, 2008.

6. The correction will not prejudice any of the parties and does not require another hearing before the EQC to make the correction.

7. The correction and amended order reflecting this correction may be made Nunc Pro Tunc by the Chairman of the EQC.

IT IS THEREFORE ORDERED that:


a. The "Order Granting Basin Electric Cooperative's and Department of Environmental Quality's Motions for Summary Judgment Regarding Protestants' Claim VIII" will be and hereby is amended as provided herein.

b. Conclusion of Law Paragraph 49, last sentence, previously reading, "Modeling in this case using actual emissions from all sources predicted no increment

exceedances." should read "Modeling in this case using actual emissions from Colstrip predicted no increment exceedances.";

c. This Order and Amendment to the Order granting summary judgment regarding Protestants' Claim VIII shall apply Nunc Pro Tunc without further hearing or advisement of the EQC and will be executed by the Chairman of the EQC.

SO ORDERED THIS 2 day of <sup>December</sup>~~November~~, 2008.

  
Dennis M. Boal, Chairman  
Environmental Quality Council  
122 West 25th Street  
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Cheyenne, Wyoming 82002  
(307) 777-7170

## CERTIFICATE OF SERVICE

I, Joe F. Girardin, certify that at Cheyenne, Wyoming, on the 8<sup>th</sup> day of December, 2008,  
I served a copy of the foregoing document by electronic email to the following persons:

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